U.S. Department of Labor

Office of Administrative Law Judges
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Issue date: 31Oct2001

In the Matter of:	:	
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MOLLY SEXTON, WIDOW OF	:	
JAMES G. SEXTON, SR.,	:	
Claimant,	:	
	:	
v.	:	CASE NO.: 2000-BLA-1059
	:	
PARAMOUNT COAL COMPANY,	:	
Employer,	:	
	:	
and	:	
	:	
DIRECTOR, OFFICE OF WORKERS'	:	
COMPENSATION PROGRAMS,	:	
Party-in-Interest	:	

Appearances:

Bobby S. Belcher, Esq.
For the Claimant

Timothy W. Gresham, Esq.
For the Employer

Before: EDWARD TERHUNE MILLER
Administrative Law Judge

DECISION AND ORDER - AWARDING BENEFITS

This case arises from a widow's claim for federal survivor's benefits under the Black Lung Benefits Act (the Act), and applicable federal regulations[1]. The Act and regulations provide compensation and

[1] All applicable regulations which are cited are included in Title 20, Code of Federal Regulations, and are cited by part and section only. By Procedural Order and Rule dated April 5, 2001 this tribunal

other benefits to coal miners who are totally disabled due to pneumoconiosis, within the meaning of the Act, and to survivors of coal miners who were totally disabled at the time of their deaths or whose deaths were caused by pneumoconiosis. The Act and regulations define pneumoconiosis ("black lung disease" or "coal workers' pneumoconiosis") as a chronic dust disease of the lungs and its sequellae, including respiratory and pulmonary impairments arising out of coal mine employment, including both medical or "clinical" pneumoconiosis and statutory or "legal" pneumoconiosis. 20 CFR §718.201. This proceeding involves the widow's first claim for benefits under the Act, as amended, filed on June 20, 2000. Since Claimant filed her application for benefits after January 1, 1982, Part 718 applies.

A formal hearing was conducted in Abingdon, Virginia on January 8, 2001, at which time all parties were afforded a full opportunity to present evidence and argument [2]. Because the miner was last employed in the coal mine industry in Virginia, the law of the Fourth Circuit Court of the United States controls. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (*en banc*).

ISSUES

At the hearing, the Employer withdrew many of the issues listed on the referral documentation. The Employer stipulated that the deceased miner had simple coal workers' pneumoconiosis which arose out of coal mine employment, but continued to contest complicated coal workers' pneumoconiosis or progressive massive fibrosis, and that the miner's death was not due to the simple coal workers' pneumoconiosis. Employer agreed that Claimant, the miner's widow, Molly Sexton, is an eligible survivor, that Employer is the properly named Responsible Operator, and that the miner had worked for Employer twenty-six years and eight months.

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found that the amended regulations promulgated pursuant to the Black Lung Benefits Act by the Secretary of Labor at 65 Fed. Reg. 79920 et seq. (Dec. 20, 2000) would not affect the outcome of this pending black lung claim. Accordingly, imposition of a stay in the proceedings under the requirements of the Preliminary Injunction Order issued on February 9, 2001 in *Nat'l Mining Ass'n v. Chao*, United States District Court for the District of Columbia, No. 1:00CV03086 (EGS) was determined to be inappropriate. Subsequently, District Judge Sullivan granted defendant's motion for summary judgement and dissolved the Preliminary Injunction Order in *Nat'l Mining Assn. supra.* on August 9, 2001. This case, therefore, is decided pursuant to Part 718 as amended.

[2] At the hearing, Director's Exhibits (DX") 1- 37 were admitted without objection (TR 7). "TR"denotes transcript of the hearing. The Claimant did not submit additional exhibits. Employer's exhibits ("EX") 1-33 were admitted without objection (TR. 28). The Claimant, who had the assistance of counsel, testified at the hearing (TR. 16 - 25).

FINDINGS OF FACT

Background

The parties stipulated, and this tribunal finds, that Claimant's deceased husband, was a coal miner within the meaning of Section 402(d) of the Act and Section 725.202 of the Regulations for at least 26 years (TR. 8, 26, DX 5). Claimant married her husband on July 14, 1984 (DX 7). She remained married to him until he died on December 11, 1999 (TR. 16, DX 1).

Procedural History

The miner's last day of work was November 24, 1999. He was hospitalized several times after this. On December 8, 1999, he was seen at St. Mary's Hospital Emergency Room, later admitted, and died on December 11, 1999. Claimant filed her survivor's claim on February 23, 2000. The Deputy Director granted this widow's claim on August 7, 2000 (DX 33), and Employer requested a hearing on August 14, 2000 (DX 34). The case was referred to the Office of Administrative Law Judges on September 6, 2000 (DX 37).

Responsible Operator

Paramount Coal Company does not contest its designation as responsible operator liable for payment of any benefits which may be found to be due to the Claimant (TR. 9).

MEDICAL EVIDENCE

The record includes extensive medical evidence, including x-ray reports, pulmonary test results, blood gas study results and hospital records. Since Employer has stipulated to the presence of pneumoconiosis which arose out of the miner's coal mine employment, and since the only issues are whether the miner's death was due to pneumoconiosis and whether the irrebuttable presumption of death to pneumoconiosis as set forth at Section 718.304 is applicable to this claim, the relevant medical evidence consists of medical reports which discuss the cause of the miner's death and the autopsy and pathological review reports which discuss whether or not the miner's autopsy yielded massive lesions.

Medical Reports/Opinions

The miner's death certificate, signed by Dr. P. Baronagan, lists the cause of death as cerebrovascular accident due to right cerebral artery thrombosis. Other significant conditions contributing to the death included left bronchopneumonia and right sided congestive heart failure (DX 8).

Dr. J. Coogan performed an autopsy on December 12, 1999 which was reported on December 28, 1999. Dr. Coogan reported on gross examination, the right lung showed no significant adhesions, but the pleural showed diffuse deposition of subpleural lymphatic anthracotic pigment. In the right apex, Dr.

Coogan noted a scar with associated parenchymal scarring and cyst formation with prominent paraseptal anthracosis with macule formation. Dr. Coogan reported some of the macules were coalesced and reached two centimeters in size. The left lung showed severe dense adhesions, apical scarring and prominent coalescing macule formation. In addition, severe bronchopneumonia was present. On microscopic examination of the right lung, Dr. Coogan reported multiple variably sized densely hyalinized macules which coalesce and which are associated with anthrasilicotic pigment deposition. Dr. Coogan stated these findings were consistent with coal workers' pneumoconiosis. She also stated there was no evidence of tuberculosis or cancer. On microscopic examination of the left lung she reported multiple hyalinized anthrasilicotic macules consistent with coal workers' pneumoconiosis, multiple areas of bronchopneumonia, some of which were resolving, and an apical cystic cavity associated with pulmonary scarring. In addition, she reported a nodular aggregate of tangled hyphae consistent with aspergillosis with no evidence of tuberculosis or cancer.

Dr. Coogan's final pathological diagnosis was: 1) extensive right cerebral ischemic changes compatible with an acute non-hemorrhagic cerebral vascular accident secondary to right internal carotid artery thrombosis; 2) focal early ischemic changes involving the left cerebral hemisphere, cerebellum and upper cervical spinal cord; 3) bronchopneumonia, left lung; 4) extensive alveolar damage with hyalin membranes, right lung; 5) bilateral anthracosilicosis compatible with coal workers' pneumoconiosis (black lung disease); 6) severe left pulmonary pleura adhesions; 7) aspergilloma of left upper lung arising in cavitary pulmonary scarring; 8) chronic passive congestion, live; 9) diffuse bilateral renal fibrin thrombi; and 10) localized severe atherosclerosis involving aorta and bilateral iliac arteries (DX 9, 10).

On May 2, 2000, Dr. R. Naeye, a board-certified pathologist, reviewed the final hospital records and examined the lung slides. Dr. Naeye concluded, based on medical reports and his microscopic examination of the lung tissue, that the deceased miner had: 1) old masses of hyalinized collagen admixed black pigment and birefringent crystals of all sizes, several of which exceeded one centimeter and may have reached two centimeters; 2) cavitary lesion caused by fungus infection (aspergillus); and 3) very recent onset of acute lobular pneumonia, characterized by foci of acute inflammatory cells filling alveolar lumina with adjacent areas of edema fluid filling these lumina in multiple lobes of the lungs. He stated there was evidence of chronic bronchitis but no evidence of chronic emphysema. Dr. Naeye stated that the major abnormality was the silicotic lesions that exceeded one centimeter and may have reached two centimeters. He stated further that these do not resemble complicated pneumoconiosis; however, they meet the current definition for legal purposes of complicated pneumoconiosis.

Dr. Naeye stated there was no evidence of disability secondary to coal workers' pneumoconiosis prior to the miner's death. He also noted that no centrilobular emphysema was present in the lung slides, a condition which he stated is almost always the cause of pulmonary disability in coal workers' pneumoconiosis. Finally, he noted the miner worked until he became ill with pneumonia on December 8, 1999. Dr. Naeye concluded, however, that the pulmonary findings meet the Department of Labor criteria for complicated coal workers' pneumoconiosis (DX 11).

At a deposition taken on September 29, 2000, Dr. Naeye stated there were many birefringent crystals present, and so the lesions present were at least partially silicotic in origin. He stated that several such crystals exceeded one centimeter in diameter, and that he could not challenge or confirm the autopsy prosector's finding that some reached two centimeters in diameter since the slides were not large enough to accommodate lesions that large. He reiterated that the large cavitary lesion present at autopsy was due to a fungal infection, specifically aspergillus. Dr. Naeye stated that the miner's terminal event was the rapidly spreading acute lobular pneumonia. He then explained that the lesions present were not complicated pneumoconiosis, which is an immunologic disorder, characterized by chronic inflammatory cells and new collagen which destroy blood vessels in the inflammatory process.

In his written report, he diagnosed complicated pneumoconiosis based on his understanding that the current definition of complicated coal workers' pneumoconiosis is a condition where lesions greater than two centimeters are present. Dr. Naeye agreed the deceased miner had simple coal workers' pneumoconiosis without question, and that it had a silicotic component. He was not as sure if the lesions he saw on lung slides would have showed up on chest x-rays, since no scientific study has compared the exact composition of individual black lung lesions and their size as seen on autopsy to what could be seen on an x-ray. He did not believe they would show up on chest x-ray. At his deposition, Dr. Naeye again declared that the pneumonia was the terminal event, but he stated that the miner had a secondary thrombosis in one of his carotid arteries, and in his debilitated state his fungus infection advanced very rapidly. Dr. Naeye opined, however, that the pneumoconiosis present did not contribute to the miner's death. He based his conclusion, in part, on the fact the miner was still working until he was hospitalized, and so, "he obviously was not incapacitated and didn't have a significant disability when he suddenly became ill and this series of unfortunate events transpired." In addition, Dr. Naeye noted near normal lung function just five weeks before the miner's death in support of his conclusion that the miner was not disabled by pneumoconiosis and that coal workers' pneumoconiosis had no role in the miner's death. Finally, he also noted the normal findings on chest x-ray reports.

On cross-examination, Dr. Naeye explained that, although the lesions may have reached two centimeters in size, the presence of these lesions did not indicate a diagnosis of complicated pneumoconiosis, which is a different disease process from simple coal workers' pneumoconiosis. Dr. Naeye stated that complicated pneumoconiosis has a different genesis. In simple coal workers' pneumoconiosis, the micronodules or macronodules expand slowly over time and come together to form a confluent mass. Even if these confluent masses reach two centimeters, that is not sufficient to diagnose complicated pneumoconiosis which is a different disease with a different cause. Dr. Naeye stated that complicated pneumoconiosis is a disease that continuously expands and is an immunological disorder, while simple coal workers' pneumoconiosis will stop progressing the day a miner ceases coal mine employment. The lesions of simple coal workers' pneumoconiosis, therefore, do not expand after cessation of exposure to coal mine dust. Dr. Naeye also agreed it is not common, but it is possible, for a miner to have normal lung function even with complicated pneumoconiosis, and he agreed it is well recognized that many coal workers' pneumoconiosis lesions can not be seen on chest x-ray readings.

Dr. Naeye also stated that no one could state with certainty that a two-centimeter lesion would or would not show up as a one-centimeter lesion on an x-ray film. Based on the negative readings he reviewed which showed no evidence of coal workers' pneumoconiosis, he opined that the number of lesions was a low perfusion. He opined further that, if the number of lesions present were of a greater perfusion, the pneumoconiosis present for many years would have shown up on a chest x-ray.

In addition to these medical reports, the record includes reports from a hospitalization in June, 1980 for pneumothorax and broken ribs following a coal mine accident. At this time, a left pleural abrasion was performed and Dr. Strader noted the presence of anthracotic lower lobes which were surprisingly free of anthracosis (EX 19) In May, 1984, the miner was hospitalized for bilateral apical infiltrates in the lungs, which was diagnosed as possible tuberculosis (EX 21).

An Emergency Room report from St. Mary's Hospital dated December 8, 1999 noted the miner was recently hospitalized and discharged (EX 5). At that time, a chest x-ray showed a mild increase in some infiltrates in the right base and left lung pneumonia, unchanged. The miner was later admitted to St. Mary's Hospital for treatment of right lower lobe pneumonia, left lung with pneumoconiosis, chronic obstructive pulmonary disease and anemia. The miner died in St. Mary's Hospital on December 11, 1999. Dr. Baronagan stated in a final report that the miner was treated for right lower lobe pneumonia with stable right apical infiltrate with acute exacerbation of chronic obstructive pulmonary disease. In addition, Dr. Baronagan noted the miner suffered a cerebrovascular accident (thrombolytic) probably in his brain stem or hypothalamus and cardiac dysrhythmia (tachycardia, junctional rhythm). Dr. Baronagan stated the miner's cardiac problems were secondary to his acute respiratory failure, noting again the recent treatment for pneumonia, left lung with status post pleurodesis and right upper lung interstitial disease with a history of treatment for tuberculosis in 1981.

Chest x-rays submitted indicate the miner was treated for a pneumothorax in June, 1980, and changes consistent with atypical mycobacterium were present in August, 1985 through 1987. Chest x-ray reports from September, 1999 though December, 1999 read originally by Dr. K. DePonte showed bilateral diffuse pulmonary infiltrates and development of pneumonia. These films were re-read by several board-certified radiologists and B-readers on behalf of the Employer. These re-readings all concluded there was no evidence of pneumoconiosis, but there was evidence of an advanced cavitary lesion, possibly tuberculosis, and infiltrates which were probably pneumonia.

CONCLUSIONS OF LAW AND DISCUSSION

Survivor's Claim

Because Claimant filed her claim after March 31, 1980, her entitlement to survivor's benefits must be determined under Part 718. 20 C.F.R. 718.2. Section 718.205(c) provides that a finding of death due to pneumoconiosis with respect to a survivor's claim after January 1, 1982, may be made by (1) competent medical evidence which establishes that the miner's death was due to pneumoconiosis; or (2) medical

evidence which establishes that pneumoconiosis was a substantially contributing cause or factor leading to the miner's death or that the miner's death was caused by complications of pneumoconiosis; or (3) where the presumption pertaining to complicated pneumoconiosis set forth at Section 718.304 is applicable.

The Benefits Review Board has held that in a survivor's claim filed after January 1, 1982, the administrative law judge must make a threshold determination as to the existence of pneumoconiosis under 20 C.F.R. 718.202(a) prior to considering whether the miner's death was due to the disease under Section 718.205. *Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85 (1993). As noted above, in this claim, the Employer has stipulated that pneumoconiosis is present. This stipulation is supported by the autopsy report of Dr. Coogan as well as the consultant's report by Dr. Naeye. Accordingly, this tribunal finds the presence of pneumoconiosis is established under the provisions of Section 718.202(a)(2).

Death Due to Pneumoconiosis

Pursuant to 20 C.F.R. 718.205(c)(1), a claimant must establish death due to pneumoconiosis by competent medical evidence. The death certificate signed by Dr. Baronagan stated that the miner's death was due to cerebrovascular accident due to right cerebral artery thrombosis, but he noted other significant conditions which led to death including left bronchopneumonia and right sided congestive heart failure. In the final hospital report, Dr. Baronagan discussed each of the three medical problems independently, noting at the end of each that the miner expired when he ceased all respirations and cardiac activity. In this report, Dr. Baronagan did not discuss with specificity which condition preceded which regarding the miner's very serious respiratory and cardiac conditions. His discussion indicates that all three conditions, the pneumonia with exacerbation of chronic obstructive lung disease, the cerebrovascular accident, and the cardiac dysrhythmias, contributed to the miner's deteriorating condition and eventual death. This is consistent with the death certificate which attributed the miner's death to the cerebrovascular accident, but noted the bronchopneumonia as a significant condition leading to death.

Dr. Naeye stated in his written reports that the miner's terminal event was the rapidly spreading pneumonia, but in the deposition he agreed with Dr. Baronagan's assessment the miner's death was due to the cerebrovascular accident as well as the bronchopneumonia. Both of the medical reports which discuss the cause of the miner's death attribute the miner's death to bronchopneumonia and the cerebrovascular accident. There is no medical report which concludes the miner's death was due to pneumoconiosis. Accordingly, this tribunal finds find death due to pneumoconiosis is not established under Section 718.205(c)(1).

Pursuant to 20 C.F.R. 718.205(c)(2), a claimant can establish death due to pneumoconiosis if pneumoconiosis was a substantially contributing cause or factor leading to the miner's death or the death was caused by complications of pneumoconiosis. The United States Court of Appeals for the Fourth Circuit has held that any condition that hastens the miner's death is a substantially contributing cause of death for purposes of Section 718.205. *Shuff v. Cedar Coal*, 997 F.2d 977 (4th Cir. 1992).

Dr. Baronagan opined that the miner's cardiac condition was secondary to his acute respiratory failure. Both the death certificate and the hospital reports discussed the serious and advancing pneumonia. Since these reports limit the discussion of the miner's death to the combination of pneumonia and cerebrovascular accident, but do not discuss what effect the miner's pneumoconiosis had on his terminal condition, this tribunal finds the evidence is not sufficient to establish that the miner's's pneumoconiosis was a substantially contributing cause of death or factor in the miner's death. Accordingly, the tribunal finds death due to pneumoconiosis is not established under subsection 718.205(c)(2).

The final method for establishing death due to pneumoconiosis is if the irrebuttable presumption of death due to pneumoconiosis at 20 C.F.R. 718.304 is applicable. 20 C.F.R. 718.205(c)(3). In this case, large opacities were diagnosed on the autopsy report. The autopsy prosector, Dr. Coogan, stated that the prominent paraseptal anthracosis with macule formation resulted in macules coalescing, some of which reached two centimeters. Dr. Naeye agreed there were some large lesions on the lung slides, but he could not establish the exact size since the lung slides were smaller than two centimeters.

The Court of Appeals for the Fourth Circuit has held that the different subsections in Section 718.304 require equivalency determinations to establish whether massive lesions diagnosed by biopsy or autopsy under subsection 718.304(b) are equivalent to large opacities (greater than one centimeter) on x-ray as set forth under subsection 718.304(a). *Double B Mining, Inc. v. Blankenship*, 177 F.3d 240 (4th Cir. 1999).

In *Double B Mining*, while insisting on the need for an equivalency determination, the Fourth Circuit acknowledged the long standing and frequently expressed standard recognized by the medical community and the Benefits Review Board "that al least one lesion of two centimeters or greater in diameter is the minimum requirement for establishing "massive lesions" and thereby invoking the irrebuttable presumption." *Id*. 177 F.3d at 243-44. The Court cited specific literature recognizing the practical equivalency of x-ray diagnosis of complicated pneumoconiosis by identification of massive lesions at least one centimeter in size and biopsy or autopsy diagnosis of massive lesions at least two centimeters in size. Under questioning, however, Dr. Naeye stated no one had ever asked him to ascertain what size lesions would be on x-ray compared to the size they are on biopsy or autopsy. He noted that it depended in part on the nature of the lesion. The portion of the lesion that would show up on x-ray would be the denser hyalinized center of the lesion. Thus, the x-ray shadow would be smaller than the actual lesion on a physical examination of the lung. Dr. Naeye also stated, "I don't think anybody can answer it with certainty" in referring to the equivalency questions raised on cross-examination. Dr. Naeye did, however, distinguish between the massive lesions caused by coalescence of the macules from simple coal workers' pneumoconiosis and the massive lesions caused by complicated pneumoconiosis which he identified as a separate disease process.

In considering the totality of the evidence, this tribunal is persuaded that the Claimant has established the presence of massive lesions as required under the irrebuttable presumption of subsection 718.304(b). While Dr. Naeye was reluctant to speculate as to what size the massive lesions found on

autopsy would appear on chest x-ray, the lesions in this case were up to two centimeters in diameter, double the equivalency size of one centimeter as required under subsection 718.304(a). The chest x-ray readings, as noted above, did not find any evidence of pneumoconiosis despite the findings of extensive bilateral anthracosis on autopsy. As noted by Dr. Naeye, x-ray reports are recognized as under-reporting the presence of coal workers' pneumoconiosis. This tribunal finds that under the circumstances of this case, the x-ray reports are outweighed by the more probative findings on autopsy. Initially, this tribunal notes that the findings on autopsy of extensive bilateral anthracosis compatible with coal workers' pneumoconiosis are more credible than the negative x-ray reports since the findings of anthracosis are based on both a gross and microscopic examination of the miner's actual lungs. In addition, the x-ray reports consistently diagnosed possible tuberculosis while the miner actually suffered from aspergillus with no tuberculosis or cancer present as determined by the autopsy examination. Thus, very little weight is accorded the negative chest x-ray readings, although it may be reasonably inferred from the medical literature referenced by the Court in *Double B Mining* and Dr. Naeye's explanation for the smaller image on x-ray that, had the two centimeter lesions disclosed by the autopsy registered on the x-rays, they would have measured at least one centimeter in diameter.

This tribunal also notes Dr. Naeye's analysis of the miner's pneumoconiosis was inconsistent. At one point he agreed that a major abnormality on the autopsy findings has the silicotic lesions that are definitely evidence of simple coal workers' pneumoconiosis. At another point, he stated that the lesions did not show up on the x-ray reports and, thus, the lesions were not significant in number based on the negative x-ray reports. However, he did not explain the inconsistency with his earlier statement that the lesions were present in sufficient degree to constitute a "major finding" on autopsy. Dr. Naeye did acknowledge that pneumoconiosis is often underrepresented on x-ray reports. Based on the unreliability of the x-ray reports, the inconsistency of his statements, and in consideration of Dr. Naeye's own statement that the x-ray reports often underrepresent the presence of coal workers' pneumoconiosis, this tribunal finds Dr. Naeye's analysis of the miner's pneumoconiosis less persuasive than the findings presented by Dr. Coogan on autopsy. However, his opinion that the lesions were of sufficient size to qualify as complicated pneumoconiosis under the regulations is obviously an important positive indication.

On consideration of all these factors, this tribunal finds the initial autopsy finding of massive lesions, some of which reached two centimeters in diameter, is not contradicted by the other evidence of record and this finding is supported by the actual autopsy findings. Furthermore, the size of these lesions in this case are at least two centimeters as compared with the lesions just barely larger than one centimeter described in *Double B. Mining, Inc.* This tribunal finds the two centimeter lesions reported on autopsy equivalent to the one centimeter large opacities discussed in subsection 718.304(a). Accordingly, this tribunal finds the Claimant can invoke the irrebuttable presumption of death due to pneumoconiosis under subsection 718.304(b). Dr. Naeye's discussion of the distinction between massive lesions due to complicated pneumoconiosis and massive lesions due to simple coal workers' pneumoconiosis is helpful in understanding the disease etiology. However, the regulation at subsection 718.304 makes no distinction between lesions

due to simple coal workers' pneumoconiosis or complicated coal workers' pneumoconiosis. Under these circumstances, therefore, this tribunal finds the Claimant is entitled to survivor's benefits since she has established the presence of massive lesions under subsection 718.304(b) which are equivalent to the requirements set forth in subsection 718.304(a).

Entitlement

In view of the foregoing, this tribunal finds that Claimant has established the miner's death was due to pneumoconiosis under the irrebuttable presumption set forth at Section 718.304(b) as provided in Section 718.205(c)(3). Accordingly, she is entitled to survivor's benefits under the Act and applicable regulations.

Onset of Disability

Benefits are payable from the beginning of the month in which the miner died. 20 C.F.R. 725.503(c). Thus, benefits shall be payable commencing as of December 1, 1999.

Attorney's Fees

Claimant's representative may submit a petition for attorney's fees within thirty (30) days of the date this Decision and Order is issued, pursuant to the provisions of 20 C.F.R. 725.365 and 724.366. Copies of the petition shall be served upon all parties.

ORDER

Paramount Coal Company shall pay to Claimant, Molly Sexton, widow of James G. Sexton, Sr., all benefits to which she is entitled commencing as of December 1, 1999.

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EDWARD TERHUNE MILLER
Administrative Law Judge

Washington, D.C.

NOTICE OF APPEAL RIGHTS: Pursuant to 20 C.F.R. 725.481, any party dissatisfied with this Decision and Order may appeal it to the Benefits Review Board within 30 (thirty) days from the date of this Decision by filing a Notice of Appeal with the **Benefits Review Board at P.O. Box 37601, Washington, D.C. 20013-7601**. A copy of this notice must also be served on Donald S. Shire, Associate Solicitor, Room N-2117, 200 Constitution Avenue, N.W., Washington, D.C. 20210.